

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2838 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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MAYABHAI K TOLIYA

Versus

STATE OF GUJARAT

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Appearance:

MR JR NANAVATI for Petitioner

MR UR BHATT, AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/02/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the President of the Association known as Hotel Halvai and Lodging Association, Gondal has challenged the decision as contained in the communication dated 11.4.1988 (Annexure "B") of the State Government in the Civil Supply Department making the following classifications in respect of consumers who are supplied kerosene for different purposes in the matter of price

fixation :-

- (i) Consumers for domestic cooking and lighting.
- (ii) Consumers, other than in the aforesaid category, who are in special category like hospitals.
- (iii) those who are not covered by the aforesaid two categories and who are using kerosene for commercial/industrial purposes.

2. Since the members of the petitioner Association are doing business viz. running hotels, restaurants, selling sweetmeats and farsans, pans and tea and other eatables, they were classified as falling in the third category of those using kerosene for commercial purposes. The case of the petitioner is that the State Government has not applied its mind to the relevant provisions of the Kerosene (Restriction on Use and Fixation of Price) Order, 1966 and that the aforesaid categories and price fixation in respect of kerosene supplied to the members of the petitioner Association is violative of Article 14 of the Constitution. It is further stated that there are different prices prevailing in the State in respect of kerosene.

3. As is well known, kerosene is one of the essential commodities which is supplied by the State to consumers in various categories and particularly there is a public distribution system for supplying kerosene to consumers belonging to the weaker sections of the society at a subsidized price. It is obvious that looking to the object of the scheme of the public distribution system, supply of kerosene at subsidized price would be justified only to the consumers for domestic cooking and lighting who fall within the criteria to whom ration cards are supplied for the purpose of supply of kerosene. As per the scheme of the public distribution scheme, supply of kerosene at subsidized rates is to be made only to persons belonging to economically weaker sections of the society. Similarly, the second category carved out is of institutions who fall in a special category like charitable hospitals, hostels, schools, Government and semi-government institutions and factories where employees/workmen are being given meals and eatables at subsidized rates or canteens run on cooperative basis where meals/eatables are being supplied at subsidized rates. Naturally, the persons represented by the

petitioner would not fall in either of the first two categories. Therefore, they would obviously fall in the third category as the members of the petitioner Association are admittedly using kerosene for business purposes. As per the settled legal position, Article 14 does not prohibit reasonable classification if the classification is based on a rational basis so as to make differentiation of classes by well defined criteria and if such classification has reasonable nexus to the object sought to be achieved.

The classification made by the aforesaid circular dated 11.4.1988 satisfies both the aforesaid tests as the consumers are divided into three well defined categories and subsidy in kerosene is given only to the first two categories who stand in a class by themselves and the consumers taking kerosene for business purposes cannot be said to be standing on the same footing as the consumers falling in the first two categories.

4. As regards the contention that the price for kerosene in different districts are fixed differently for different categories, the same cannot have any bearing to the question of legality of the classification made by the State Government as per the circular at Annexure "B" to the petition. Nothing is pointed out to show how the fixation of price of kerosene for the persons falling in the third category at the rate of Rs.3.41 per Ltr. at the relevant time was illegal or arbitrary. There is no warrant for directing the respondent authorities to supply the petitioner kerosene at the rate of Rs.2.27 per Ltr. which was the subsidized rate for the consumers falling in the first two categories at the relevant time.

5. In view of the above discussion, the petition is dismissed.

February 11, 2000 (M.S. Shah, J.)  
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